

**Board Meeting Minutes
April 25 & 26, 2002**

**Board for Professional Engineers and Land Surveyors
Courtyard Marriott, San Diego
530 Broadway
San Diego, California 92101
(619) 446-3005**

Thursday, April 25, 2002

Board Members Present: Millicent Safran (Vice-President), Gregg Brandow, David Chen, Arthur Duffy, James Foley, Andrew Hopwood, Stephen Lazarian, Michael Welch, and Dale Wilson.

Board Members Absent: David Fruchtmann and Kathryn Hoffman

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Nancy Eissler (Attorney General Liaison Analyst), Janece Sargis (Examination Analyst), Cindy Morris-Hoppe (Executive Analyst), Debbie Thompson (Budget Analyst), and Eileen Crawford (Staff Civil Engineer)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 1:20 p.m. Vice-President Safran administered the Oaths of Office to re-appointed and newly-appointed Board Members Gregg Brandow, Arthur Duffy, Michael Welch, and Dale Wilson. Roll call was taken, and a quorum was established.

2. Public Comment

There was no public comment.

Ms. Safran introduced former Board Presidents George Shambeck and Quang Vu who were in attendance at the meeting.

3. Closed Session

The Board went into closed session at 1:25 p.m.

4. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidate who had previously passed the 8-hour portion of the examination and the Seismic Principles and Engineering Surveying examinations (as appropriate).

Ms. Christenson reported that the Board approved the successful and unsuccessful appeals of the October 2001 NCEES Electrical examination.

Ms. Christenson also reported that the Board discussed pending litigation as noticed.

Ms. Christenson reported that the Board adopted the Stipulations regarding Wallace Beron, Herbert R. Champion, and Robert Eddy, adopted the Proposed Decisions regarding Michael Carlos Laroue and Craig Marshall, and denied the Petition for Reconsideration of William Davis Reed.

5a. Approval of the Minutes of the March 7 & 8, 2002, Board Meeting.

MOTION: Dr. Chen/Mr. Hopwood moved to approve the minutes as amended of the March 7 & 8, 2002, Board Meeting.

VOTE: 9-0, motion carried.

5b. Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Foley/Mr. Hopwood moved to approve the candidates for licensure based on examination results approved in closed session.

VOTE: 9-0, motion carried.

6. Approval of Delinquent Reinstatements.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the Delinquent Reinstatements as follows:

Civil

- 1. Joseph Enzmann**

Reinstate applicant's civil license once he/she takes and passes the Seismic Principles Examination, the Engineering Surveying Examination, and the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

2. Kimber Von Blohn

Reinstate applicant's civil license once he/she takes and passes the Seismic Principles Examination, the Engineering Surveying Examination, and the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

Control Systems

1. William R. Goff

Reinstate applicant's control systems license once he/she takes and passes the Board's Laws and Rules Examination.

Electrical

1. John P. Delozier

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

2. Fernando Pardo

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

Mechanical

1. David P. Chan

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

2. Linda S. Ketellapper

Reinstate applicant's mechanical license once she takes and passes the Board's Laws and Rules Examination.

3. Jade S. Olsen (Marshall)

Reinstate applicant's mechanical license once she takes and passes the Board's Laws and Rules Examination

VOTE: 9-0, motion carried.

7. Comity and Temporary Authorization Applications.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the following Civil applicant to set for the Seismic Principles and Engineering Surveying examinations, and waive the second division examination (NCEES Civil Engineering examination) because the applicant has the appropriate experience, has taken and passed an eight-hour engineering examination, and is registered in another state. In order to obtain registration, the applicant must still take and pass the Seismic Principles, Engineering Surveying, and take-home examinations.

1. Charles Reiss

VOTE: 9-0, motion carried.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the following Electrical applicant for licensure by waiving the second division examination (NCEES Electrical Engineering examination) because the applicant has the appropriate experience, has taken and passed an 8-hour NCEES EIT examination, an 8-hour PE examination, is licensed in other states, and has taken and passed the take-home examination.

1. Steven B. Turner

VOTE: 9-0, motion carried.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the following Mechanical applicant for licensure by waiving the second division examination (NCEES Mechanical Engineering examination) because the applicant has the appropriate experience, has taken and passed both an 8-hour NCEES EIT examination, an 8-hour NCEES PE examination, is licensed in other states, and has taken and passed the take-home examination.

1. Denis M. Beaudin

VOTE: 9-0, motion carried.

MOTION: Mr. Hopwood/Dr. Chen moved to approve the Comity applicants listed on pages 37 & 38 of the Board agenda, for licensure.

VOTE: 9-0, motion carried.

8. Approval of 2002 Strategic Plan (Possible Action)

MOTION: Mr. Lazarian/Mr. Hopwood moved to approve the 2002 Strategic Plan with proposed changes and submit it to the Department of Consumer Affairs by the June 1, 2002, deadline.

VOTE: 9-0, motion carried.

9. Election of Board President and Vice-President for 2002/2003 (Possible Action)

MOTION: Mr. Lazarian/Dr. Chen moved to elect Ms. Safran as President and Dr. Brandow as Vice-President.

VOTE: 9-0, motion carried.

10. Approval of RFP #7080-01-1 Special Civil Examination Development Services (Possible Action)

Ms. Christenson reported that at the Department of General Services had found in the Board's favor regarding the challenge of this RFP. Therefore, as an authority delegated to the Executive Officer, Ms. Christenson executed the contract with Professional Management and Evaluation Services (PMES) to avoid any further delays. Ms. Christenson requested that the Board formally approve the awarding of this RFP to ratify her execution of the contract.

MOTION: Mr. Hopwood/Mr. Foley moved to award the contract for RFP #7080-01-1, Special Civil Examination Development Services, to Professional Management and Evaluation Services

VOTE: 9-0, motion carried.

11. Approval of 5-Year Credit for ABET Masters Degree (Board Rule 424 and Board Rule 460) (Possible Action)

Ms. Christenson reviewed the information presented in the agenda packet regarding this item. She advised the Board that staff will need to review all of the current laws and regulations to determine all of the various terms/phrases currently used to refer to "an approved engineering program" in order to ensure that all variations are addressed in the regulations.

MOTION: Mr. Foley/Mr. Welch moved to direct staff to proceed with the rulemaking process to amend Board Rule 424 and repeal Board Rule 460. To add the definitions of the various approved

engineering programs and to work with Mr. Lazarian on Board Rule 424 for purposes of clarification.

VOTE: 9-0, motion carried.

12. Title Act Study (Update)

Ms. Christenson reported that the Institute of Social Research held a forum on March 22, 2002. A draft report will be sent out for comment.

Friday, April 26, 2002

Board Members Present: Millicent Safran (Vice-President), Gregg Brandow, David Chen, Arthur Duffy, James Foley, David Fruchtman, Andrew Hopwood, Stephen Lazarian, Michael Welch, and Dale Wilson.

Board Members Absent: Kathryn Hoffman

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Deputy Attorney General Liaison), Nancy Eissler (Attorney General Liaison Analyst), Janeece Sargis (Examination Analyst), Cindy Morris-Hoppe (Executive Analyst), Debbie Thompson (Budget Analyst).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order at 9:10 a.m. Vice-President Safran administered the Oath of Office to newly-appointed Board Member David Fruchtman. Roll call was taken, and a quorum was established.

2. Public Comment

There was no public comment.

13. Adoption of Board Rule 407 (Fees) (Possible Action)

MOTION: Dr. Chen/ Mr. Hopwood moved to adopt the proposed amendments to Board Rule 407.

VOTE: 10-0, motion carried.

14. Utilization of TAC Members (Possible Action)

Ms. Christenson reviewed statutes regarding TAC functions, memberships, and qualifications. Ms. Christenson stated that it is important to note that the TAC is unable to act or make decisions for, or on behalf of, the Board in any capacity. The role of a TAC is merely advisory. Ms. Christenson also advised that since appointments have been made to the Board and a lack of a quorum should no longer be a problem, this is no longer an issue.

15. Consideration of Board Staff Approval of all Comity Applications (Possible Action)

Ms. Christenson reviewed the current Comity Application process for the new Board members.

MOTION: Dr. Brandow/Mr. Hopwood moved to direct staff to proceed with the review and approval of all comity applications with the discretion to provide the applications which are questionable to the appropriate two Board members, based on the TAC liaison assignments, for review and consultation.

VOTE: 10-0, motion carried.

16. Examination/Qualifications

a. Temporary Authorization (Possible Action)

Ms. Christenson reported that, at the March Board meeting, staff was directed to investigate the possibility of seeking legislation to increase the temporary authorization fee, to draft a proposed procedure for processing temporary authorization applications to be adopted as a regulation, and to provide information on how the process will be implemented.

Ms. Christenson advised that staff discussed the possibility of legislation to increase the fees with legislative staff and with the Department of Consumer Affairs; they advised that such legislation would probably not be successful this year.

Ms. Christenson reviewed the proposed procedure for processing temporary authorization applications as shown in the agenda packet and advised the Board that regulations would need to be adopted regarding these procedures before they could be implemented.

The Board directed staff to prepare the regulatory language and present it to the Board at a future meeting for formal approval.

17. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on the changes to the fund condition dated April 2, 2002. An adjustment was made for the proposed fee increases to include the fiscal impact of the additional application revenue beginning FY 2002/03 and to include the renewal revenue increase beginning with FY 2004/05. Other changes include an increase in this FY's projected application revenue from \$2,037,000 to \$2,408,000 and from \$4,176,000 in renewal revenue to \$4,182,000. Without the additional revenue generated

from the proposed fee increases, the Board will face a \$1.3 million deficit in FY 2003/04. The Department of Finance recommends a three- to six-month fund reserve be maintained to fund requested budget augmentations and/or mandated cost increases. The maximum amount of reserve that can be maintained is twenty-four months. Ms. Thompson pointed out the additional fee increase revenue cannot be spent until the Governor approves an increase to the Board's budget through the BCP process. Due to the State's current economic situation, most BCPs are now denied unless they are critical and/or the expense is mandated.

b. FY 2001/02 & 2002/03 Budget (Possible Action)

Ms. Thompson reported that, based upon the February 28, 2002 expenditure reports for the Board, the projected savings after budgeted expenditures is \$17,369. Significant changes to the budget include an additional savings of \$32,000 for the continued 5 vacancies that cannot be filled due to the State hiring freeze. Expenditures were increased for Exam Proctors by \$27,000 and for Exam Contracts by \$16,000 for Exam Contracts due to the exam population increase for the April 2002 exam. Other smaller projected expenditure increases were made for Travel, Facilities Operations (building lease), Teale, and DP Maintenance and Supplies. The projected savings will likely increase to an estimated \$33,000 based on the March 31st expenditure report Ms. Thompson recently received.

c. Year 2003/04 BCPs (Possible Action)

Ms. Thompson reviewed the draft BCPs the Board is now preparing for FY 2003/04 as identified in the Board's agenda. An additional BCP was added for the Board's Building Lease which expires December 31, 2004.

Ms. Safran appointed Mr. Hopwood and Mr. Chen to review BCP's prior to their submittal to DCA on June 3, 2002. The BCPs will be reviewed by DCA and Agency and then submitted to the Department of Finance September 9, 2003.

18. Legislative

a. Discussion of Legislation for 2002, including but not limited to, AB269 (Support), AB2634 (No position), SB1244 (Support), SB1958 (Watch), SB2018 (Support), SB2024 (Support), SB2025 (Support), SB2027 (Watch), SB2059 (Watch) (Possible Action)

Ms. Christenson updated the Board on the status of the bills the Board is currently following.

MOTION: Mr. Hopwood/Mr. Lazarian moved to support AB2634, regarding Governor appointments.

VOTE: 10-0, motion carried.

b. Status of Regulations

Ms. Christenson reported that the following regulations will be discussed/reviewed in 2002:

- Five Year Credit for ABET Masters Degree
- ABET Approval of Foreign Degrees
- LSIT experience requirement

19. Enforcement

a. Enforcement Program Update

1. Enforcement Outreach Program

Ms. Eissler reported that Jacqueline Jenkins, Enforcement Outreach Coordinator, would be attending a consumer fair being put on by DCA in San Diego on June 8, 2002. Ms. Eissler also advised the Board that due to the increase in workload in the Enforcement Unit caused by staffing shortages, Ms. Jenkins is not actively scheduling Enforcement Outreach meetings at this time.

2. Board Rules 475 & 476 (Codes of Professional Conduct) Rulemaking Status

Ms. Eissler reported that the notice of proposed rulemaking to adopt the Codes of Professional Conduct had been published and mailed that day, so the 45-day public comment period will end on June 10, 2002. Ms. Eissler advised that a public hearing will be held prior to the Board meeting on Friday, June 14, 2002, beginning at 9:00 a.m., in Sacramento.

b. Approval to Begin the Rulemaking Process to Amend Board Rule 404 to Add Definitions of Negligence and Incompetence (Possible Action)

Ms. Ruff reviewed the information in the agenda packet, including her letter, regarding the different purposes for civil tort law and administrative licensing law and also the reasons for different definitions of "negligence".

MOTION: Mr. Lazarian/Mr. Hopwood moved to direct staff to proceed with the rulemaking process to amend Board Rule 404 to add the definitions of "negligence" and "incompetence" and to amend the definitions of "electrical engineering" and "mechanical engineering," as shown in the agenda packet with the addition of language to the definitions of "negligence" and "incompetence" to clarify that the definitions are for the sole purpose of enforcing violations of the Professional Engineers Act and the Professional Land Surveyors' Act.

VOTE: 10-0, motion carried.

c. Board Rules 404.1 and 404.2 – Definitions of Responsible Charge (Possible Action)

Ms. Eissler reviewed the information in the agenda packet and advised the Board that she and Mr. Duke believe it would be more appropriate at this time to publish an article in the Board's newsletter and on the website regarding the responsible charge laws than to amend the regulations.

After further discussion regarding the need to clarify the laws for the licensees, the following motion was made:

MOTION: Dr. Brandow/Dr. Chen moved to direct staff to draft language to amend Board Rules 404.1 and 404.2 to include that licensees are allowed to take over a project from another licensee as long as the "successor licensee" meets the requirements of the responsible charge criteria. This language is to be presented to the Board at the next meeting for final approval.

VOTE: 10-0, motion carried.

20. Technical Advisory Committee Reports (Possible Action)

a. Land Surveying

1. Report on the April 25, 2002 meeting.

Mr. Foley reported that the LS TAC reviewed and concurred with the Code of Professional Conduct.

b. Civil/Geotechnical/Structural Engineering

1. Report on the April 25, 2002 meeting. (Joint meeting held)

Dr. Brandow reported that the Civil/Geotechnical/Structural TACs discussed the Code of Professional Conduct, Structural examination, Test Plan for the Structural II examination, and Responsible Charge.

c. Mechanical/Electrical Engineering

1. Report on the April 25, 2002 meeting. (Joint meeting held)

Mr. Wilson reported that the Mechanical/Electrical TACs discussed the Code of Professional Conduct. Mr. Hopwood reported that the Electrical TAC would be making recommendations to the Board at the next meeting regarding new appointments to the TAC.

21. Liaison Reports (Possible Action)

a. ABET

Ms. Safran asked Mr. Stout if he had any information regarding current ABET activities to report to the Board. Mr. Stout advised that he is no longer a member of the ABET board.

b. NCEES

Ms. Christenson reported that the Western Zone meeting will be held, May 2-4, 2002, in Sun Valley, Idaho. Dr. Brandow and Mr. Hopwood will be attending with Ms. Christenson.

c. Technical and Professional Societies

No report given.

22. President's Report

No report given.

23. Executive Officer's Report

1. Administration Report

a. Executive summary report – revised format

Ms. Christenson reported on this item.

2. Personnel

a. Hiring freeze/Vacancies – Resource allocations

No report given.

3. Enforcement/Examination/Licensing

a. April Examination Administration

Ms. Christenson reported that there has been an increase in the examination population.

Ms. Christenson also reported that there are 25 examination subversion cases.

b. College Outreach

Ms. Christenson reported on the College Outreach sessions that Ms. Crawford has held in the last few months.

c. SE Test Plan

No report given.

4. Publications/Website

a. Website activity

Ms. Christenson reported on this item.

b. Bulletin

Ms. Christenson reported that due to the hiring freeze, the Bulletin will be delayed.

5. Other

a. DCA update

No report given.

24. Approval of Board Travel (Possible Action)

MOTION: Dr. Chen/Mr. Lazarian moved to approve Dr. Brandow's and Mr. Hopwood's travel to Idaho for the Western Zone meeting.

VOTE: 9-0-1, Mr. Hopwood abstained, motion carried.

25. Other Items Not Requiring Board Action

a. Next Board meeting: June 13 & 14, 2002, Sacramento, California.

Ms. Safran stated that in June there will be an orientation for the new Board members.

26. Adjourn

The Board adjourned at 11:20 a.m.

PUBLIC PRESENT

Tom Stout

David K. Johnson, EE TAC Member

Masood Omar, PECG

George Shambeck, CLSA

Richard Markuson, CELSOC